

AMENDED IN SENATE MARCH 28, 2006

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1319

Introduced by Senator Cedillo

February 16, 2006

An act to add Section 131.9 to the *Health and Safety Code* and to add Section 851.91 to the Penal Code, relating to ~~criminal procedure~~ *civil actions*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Cedillo. Criminal procedure: release from custody in jail.

Existing law generally regulates the conditions of arrest and release from custody.

This bill would state findings and declarations of the Legislature relative to "homeless dumping," as defined.

This bill would prohibit public agencies, as defined, from releasing a person from their custody into a location for the purpose of removing the person from a specific neighborhood, city, county or jurisdiction. This bill would authorize a civil action against the agency for preventive relief, as specified. This bill would also authorize a civil penalty against the agency in the amount of \$10,000 per violation and attorney's fees to be awarded to the prevailing plaintiff.

By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Many cities and local arresting agencies transport persons
4 in need of drug treatment, mental health, or homeless support
5 services to other jurisdictions because of the presence of service
6 providers, regardless of available treatment beds.

7 (b) The act of transporting those persons in need to the streets
8 where service providers are present without confirming the
9 availability of services is known as “homeless dumping.”

10 ~~SEC. 2.—Section 851.91 is added to the Penal Code, to read:~~

11 ~~851.91. No public agency, including, but not limited to, a law~~
12 ~~enforcement agency, public hospital, or any person employed by~~
13 ~~the agency, who has custody of a person shall release the person~~
14 ~~from custody into a location for the purpose of removing that~~
15 ~~person from a specific neighborhood, city, county or jurisdiction,~~
16 ~~either temporarily or permanently, unless otherwise required by~~
17 ~~law. Whenever there is reasonable cause to believe a public~~
18 ~~agency, or employee of the agency, is engaged in a pattern or~~
19 ~~practice of releasing persons from the agency’s custody for the~~
20 ~~purpose of removing the person from a specific neighborhood,~~
21 ~~city, county, or jurisdiction, either temporarily or permanently,~~
22 ~~the Attorney General, any district attorney, or city attorney, or~~
23 ~~any person aggrieved by this practice is authorized to bring a~~
24 ~~civil action in the appropriate court requesting preventive relief,~~
25 ~~including an application for a permanent or temporary injunction,~~
26 ~~restraining order, or other order against the public agency or~~
27 ~~public employee engaged in the pattern or practice. A public~~
28 ~~agency or employee who violates this section may also be subject~~
29 ~~to a civil penalty of up to ten thousand dollars (\$10,000) per~~
30 ~~violation. The civil penalties collected pursuant to this section~~
31 ~~shall be paid to the agency or individual bringing the action. A~~

1 ~~prevailing plaintiff may also be awarded attorney's fees and~~
2 ~~costs.~~

3 *SEC. 2. Section 1317.9 is added to the Health and Safety*
4 *Code, to read:*

5 *1317.9. (a) No hospital or medical facility may transport or*
6 *provide transportation to a person who is in need of homeless*
7 *support services to a homeless service provider or shelter unless*
8 *each of the following apply:*

9 *(1) The person agrees to be transported.*

10 *(2) The agency transports or provides transportation for the*
11 *person directly to the homeless service provider for immediate*
12 *enrollment.*

13 *(3) The homeless service provider confirms there is available*
14 *space for the person to be transported.*

15 *(b) Whenever there is reasonable cause to believe that a*
16 *hospital or medical facility, or an employee of the hospital or*
17 *facility, violated this section, the Attorney General, any district*
18 *attorney, or city attorney, or any person aggrieved by the*
19 *violation, is authorized to bring a civil action in the appropriate*
20 *court requesting preventive relief, including an application for a*
21 *permanent or temporary injunction, restraining order, or other*
22 *order against the hospital or facility, or the employee of the*
23 *hospital or facility that violated this section. A hospital or*
24 *facility, or an employee of the hospital or facility which violates*
25 *this section is subject to a civil penalty of up to ten thousand*
26 *dollars (\$10,000) per violation. Any civil penalty assessed*
27 *pursuant to this section shall be paid to the agency or person*
28 *bringing the action. A prevailing plaintiff may also be awarded*
29 *attorney's fees and costs.*

30 *SEC. 3. Section 851.91 is added to the Penal Code, to read:*

31 *851.91. (a) No law enforcement agency may transport or*
32 *provide transportation to a person who is in need of homeless*
33 *support services to a homeless service provider or shelter unless*
34 *each of the following apply:*

35 *(1) The person agrees to be transported.*

36 *(2) The agency transports or provides transportation for the*
37 *person directly to the homeless service provider for immediate*
38 *enrollment.*

39 *(3) The homeless service provider confirms there is available*
40 *space for the person to be transported.*

1 (4) *The law enforcement agency transports the person to the*
2 *receiving area of the service provider for the purpose of*
3 *enrollment.*

4 (b) *Whenever there is reasonable cause to believe that a law*
5 *enforcement agency, or an employee of the law enforcement*
6 *agency, violated this section, the Attorney General, any district*
7 *attorney, or city attorney, or any person aggrieved by the*
8 *violation, is authorized to bring a civil action in the appropriate*
9 *court requesting preventive relief, including an application for a*
10 *permanent or temporary injunction, restraining order, or other*
11 *order against the law enforcement agency, or the employee of the*
12 *law enforcement agency that violated this section. A law*
13 *enforcement agency, or an employee of the law enforcement*
14 *agency which violates this section is subject to a civil penalty of*
15 *up to ten thousand dollars (\$10,000) per violation. Any civil*
16 *penalty assessed pursuant to this section shall be paid to the*
17 *agency or person bringing the action. A prevailing plaintiff may*
18 *also be awarded attorney's fees and costs.*

19 ~~SEC. 3.~~

20 SEC. 4. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.